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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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108/894,548 08/21/97 QIN

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EXAMINER

SHANOSKI, P

ART UNIT	PAPER NUMBER
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3761

*15*

DATE MAILED:

07/13/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No.	Applicant(s)
	08/894,548	QIN ET AL.
	Examiner	Art Unit
	Paul A Shanoski	3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

#### Status

1) Responsive to communication(s) filed on 18 April 2000.

2a) This action is FINAL.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 19-39 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 19-39 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) All b) Some \* c) None of the CERTIFIED copies of the priority documents have been:

1. received.

2. received in Application No. (Series Code / Serial Number) \_\_\_\_\_ .

3. received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

#### Attachment(s)

15) Notice of References Cited (PTO-892)                  18) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_ .

16) Notice of Draftsperson's Patent Drawing Review (PTO-948)                  19) Notice of Informal Patent Application (PTO-152)

17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.                  20) Other: \_\_\_\_\_

**DETAILED ACTION*****Specification***

The specification is objected to as the Applicant has failed to provide headings.

Applicant is advised on how to arrange the content of the specification.

**Content of Specification**

- (a) Title of the Invention: See 37 CFR 1.72(a). The title of the invention should be placed at the top of the first page of the specification. It should be brief but technically accurate and descriptive, preferably from two to seven words.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
- (d) Reference to a "Microfiche Appendix": See 37CFR 1.96(c) and MPEP § 608.05. The total number of microfiche and the total number frames should be specified.
- (e) Background of the Invention: The specification should set forth the Background of the Invention in two parts:
  - (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."
  - (2) Description of the Related Art: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."
- (f) Brief Summary of the Invention: A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and

distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.

- (g) Brief Description of the Several Views of the Drawing(s): A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (h) Detailed Description of the Invention: A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. This item may also be titled "Best Mode for Carrying Out the Invention." Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.
- (i) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet. (37 CFR 1.52(b)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps.
- (j) Abstract of the Disclosure: A brief narrative of the disclosure as a whole in a single paragraph of 250 words or less on a separate sheet following the claims.
- (k) Drawings: See 37 CFR 1.81, 1.83-1.85, and MPEP § 608.02.
- (l) Sequence Listing: See 37 CFR 1.821-1.825.

The disclosure is further objected to because of the following informalities:

Applicant must use the American spellings, rather than the English versions. An example of this is the word "labour", found on page 1, second paragraph.

Appropriate correction is required.

Additionally, the title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

***Response to Amendment***

The response dated April 14, 2000 is considered fully responsive.

The previous Examiner's indicated that claim 23 would be allowable if rewritten in independent form (as was done with claim 19). Upon further review, due to the discovery of additional prior art, this indication of allowability is hereby withdrawn.

***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 19, 24, 30-31, 33-35, and 37-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Ansell (5,183,664).

Ansell teaches the a wound dressing comprising a first wound contact layer containing calcium alginate (column 7, lines 9-17) and a second layer having a higher hydrophilicity than the first, as well as a breathable film having an increased MVTR

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capability (claim 1, column 2, lines 10-19 and 53-60, column 3, lines 3-49, and column 5, lines 9-65.

Regarding claim 24, see column 7, lines 9-17.

Regarding claims 30-31, see column 5, lines 9-12.

Regarding claim 33, see column 5, lines 19-20.

Regarding claim 34, see column 6, lines 65-68.

Regarding claim 35, see column 7, lines 10-11.

Regarding claim 37-38, see column 7, lines 5-16.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20-22, 27-29, 32, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ansell.

Ansell discloses the claimed invention except for the particulars of thickness of the layers, the choice of material, and the MVTR as claimed in claims 20-22, 27-29, 32, and 36. It would have been an obvious matter of design choice to add these particulars since applicant has not disclosed that the particulars solve any stated problem or are for

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any particular purpose and it appears that the invention would perform equally well with different thicknesses, MVTR values, and materials.

Whether these particulars solve any particular problem or produce any unexpected result, I must conclude that they are merely matters of engineering design choice, and thus do not serve to patentably distinguish the claimed invention over the prior art. See *In re Kuhle*, 526 F.2d. 553, 188 USPQ 7 (CCPA 1975).

Applicant is also reminded that arguments toward the criticality of an element will generally be given little patentable weight. The basis for criticality should be disclosed in the specification or supplied by affidavit. See *In re Cole*, 140 USPQ 230 (CCPA 1964).

Claims 25 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ansell, in view of Wren (5,238,685).

Ansell fails to teach a dressing which delivers a component to the wound, and the reference further fails to set forth a layer that is woven, non-woven, or knitted fibrous material. Wren teaches the delivery of antimicrobial agents or anesthetics (column 4, lines 1-5), as well as the use of a non-woven, woven, or knitted fabric (column 4, lines 16-17). One of ordinary skill in the art could have combined these two references to arrive at the claimed invention. One of ordinary skill in the art would have been motivated to have made this combination. Both involve the use of a plurality of layers, including a wound contact pad and a backing sheet, so that moisture is removed from the surface of the skin, to be placed onto a wound.

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Claim 39 is rejected under 35 U.S.C. 103(a) as an obvious design choice over Ansell, in view of Wren, as Wren discloses the use of anti-microbial agents.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Laszio (EP 0 227 955), in view of Rasmussen et al (P.N. 5,520,762).

Laszio discloses a wound dressing containing a contact layer which contains sodium alginate (column 1, line 36) and a breathable film having a greater hydrophilicity and an increased MVTR capacity (column 2, lines 1-39).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The more pertinent references are: Freeman (5,681,579); Hutcheon et al. (5,807,295), and; Rasmussen et al. (5,520,762). The less pertinent references are; Schoendorfer et al. (5,899,856); Kadash et al. (5,885,237); hardy (5,735,812); Cole et al. (5,197,945); Eckert et al. (5,487,889); Schonfeldt et al. (5,738,860), and; Freeman (5,968,001).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Shanoski whose telephone number is (703) 305-0560. The examiner can normally be reached on M-F, 7:30-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 306-4520 for unofficial communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

  
Paul Shanoski

June 30, 2000

  
Paul Shanoski  
June 30, 2000